



004213

Contract #

069021

## STATE OF UTAH CONTRACT

1. CONTRACTING PARTIES: This contract is between the following agency of the State of Utah:

Department: Department of Transportation Agency Code: 810 Division: Procurement, referred to as (STATE), and the following CONTRACTOR:Northwest Pipe Company

Name

6307 Toledo Street

Address

HoustonTexas77008

City

State

Zip

## LEGAL STATUS OF CONTRACTOR

☐ Sole Proprietor☐ Non-Profit Corporation☒ For-Profit Corporation☐ Partnership☐ Government AgencyContact Person Larry Peak Phone # (800) 369-5009 Fax # (713) 863-4350 E-mail www.lpeak@nwpipe.com  
Federal Tax ID# 93-0557988 Vendor # 581551 Commodity Code # 57044000297

2. GENERAL PURPOSE OF CONTRACT: The general purpose of this contract is to provide:  
Utah Department of Transportation with POZ-LOC Sign Post Socket System and accessories.
3. PROCUREMENT: This contract is entered into as a result of the procurement process on RX#, RX-810-56000000168,  
FY 2005 Bid# GL5062
4. CONTRACT PERIOD: Effective date 15 July 2005 Termination date 14 July 2009 unless terminated early or  
extended in accordance with the terms and conditions of this contract. Renewal options: (1) 1-year option.
5. CONTRACT COSTS: CONTRACTOR: Requirements Contract See Attachment D for Pricing.
6. ATTACHMENT A: Division of Purchasing's Standard Terms and Conditions  
ATTACHMENT B: Scope of Work  
ATTACHMENT C: Special Terms and Condition  
ATTACHMENT D: Pricing

Any conflicts between Attachment A and other Attachments will be resolved in favor of Attachment A.

7. DOCUMENTS INCORPORATED INTO THIS CONTRACT BY REFERENCE BUT NOT ATTACHED:
- a. All other governmental laws, regulations, or actions applicable to the goods and/or services authorized by this contract.
- b. Utah State Procurement Code, Procurement Rules, and CONTRACTOR'S response to Bid # GL5062  
Dated: 09 May 2005.

IN WITNESS WHEREOF, the parties sign and cause this contract to be executed.

## CONTRACTOR

Larry E Peak 8/9/05  
Contractor's signature DateLARRY E PEAK CSM  
Type or Print Name and Title

## STATE

Kelvin G. Thacker 28 July 05  
Kelvin G. Thacker, Procurement Manager DateD. H. Hines AUG 24 2005  
Director, Division of Purchasing DateCONTRACT RECEIVED AND  
PROCESSED BY  
DIVISION OF FINANCE AUG 26 2005  
Director, Division of Finance DatePaul Kikuchi  
Agency Contact Person801-965-4071  
Telephone Number801-965-4818  
Fax Numberpkkuchi@utah.gov  
E-Mail



## ATTACHMENT A: STATE OF UTAH STANDARD TERMS AND CONDITIONS

1. **AUTHORITY:** Provisions of this contract are pursuant to the authority set forth in 63-56, Utah Code Annotated, 1953, as amended, Utah State Procurement Rules (Utah Administrative Code Section R33), and related statutes which permit the State to purchase certain specified services, and other approved purchases for the State.
2. **CONTRACT JURISDICTION, CHOICE OF LAW, AND VENUE:** The provisions of this contract shall be governed by the laws of the State of Utah. The parties will submit to the jurisdiction of the courts of the State of Utah for any dispute arising out of this Contract or the breach thereof. Venue shall be in Salt Lake City, in the Third Judicial District Court for Salt Lake County.
3. **LAWS AND REGULATIONS:** Any and all supplies, services and equipment furnished will comply fully with all applicable Federal and State laws and regulations.
4. **RECORDS ADMINISTRATION:** The Contractor shall maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this contract. These records shall be retained by the Contractor for at least four years after the contract terminates, or until all audits initiated within the four years, have been completed, whichever is later. The Contractor agrees to allow State and Federal auditors, and State Agency Staff, access to all the records to this contract, for audit and inspection, and monitoring of services. Such access will be during normal business hours, or by appointment.
5. **CONFLICT OF INTEREST:** Contractor represents that none of its officers or employees are officers or employees of the State of Utah, unless disclosure has been made in accordance with 67-16-8, Utah Code Annotated, 1953, as amended.
6. **CONTRACTOR, AN INDEPENDENT CONTRACTOR:** The Contractor shall be an independent contractor, and as such, shall have no authorization, express or implied, to bind the State to any agreements, settlements, liability, or understanding whatsoever, and agrees not to perform any acts as agent for the State, except as herein expressly set forth. Compensation stated herein shall be the total amount payable to the Contractor by the State. The Contractor shall be responsible for the payment of all income tax and social security amounts due as a result of payments received from the State for these contract services. Persons employed by the State and acting under the direction of the State shall not be deemed to be employees or agents of the Contractor.
7. **INDEMNITY CLAUSE:** The Contractor agrees to indemnify, save harmless, and release the State OF UTAH, and all its officers, agents, volunteers, and employees from and against any and all loss, damages, injury, liability, suits, and proceedings arising out of the performance of this contract which are caused in whole or in part by the negligence of the Contractor's officers, agents, volunteers, or employees, but not for claims arising from the State's sole negligence.
8. **EQUAL OPPORTUNITY CLAUSE:** The Contractor agrees to abide by the provisions of Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on the basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age; and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. Also, the Contractor agrees to abide by Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the work place.
9. **SEPARABILITY CLAUSE:** A declaration by any court, or any other binding legal source, that any provision of this contract is illegal and void shall not affect the legality and enforceability of any other provision of this contract, unless the provisions are mutually dependent.
10. **RENEGOTIATION OR MODIFICATIONS:** This contract may be amended, modified, or supplemented only by written amendment to the contract, executed by the same persons or by persons holding the same position as persons who signed the original agreement on behalf of the parties hereto, and attached to the original signed copy of the contract.
11. **DEBARMENT:** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract), by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by the State. The Contractor must notify the State Director of Purchasing within 30 days if debarred by any governmental entity during the Contract period.
12. **TERMINATION:** Unless otherwise stated in the Special Terms and Conditions, this contract may be terminated, with cause by either party, in advance of the specified termination date, upon written notice being given by the other party. The party in violation will be given ten (10) working days after notification to correct and cease the violations, after which the contract may be terminated for cause. This contract may be terminated without cause, in advance of the specified expiration date, by either party, upon 90 days prior written notice being given the other party. On termination of this contract, all accounts and payments will be processed according to the financial arrangements set forth herein for approved services rendered to date of termination.
13. **NONAPPROPRIATION OF FUNDS:** The Contractor acknowledges that the State cannot contract for the payment of funds not yet appropriated by the Utah State Legislature. If funding to the State is reduced due to an order by the Legislature or the Governor, or is required by State law, or if federal funding (when applicable) is not provided, the State may terminate this contract or proportionately reduce the services and purchase obligations and the amount due from the State upon 30 days written notice. In the case that funds are not appropriated or are reduced, the State will reimburse Contractor for products delivered or services performed through the date of cancellation or reduction, and the State will not be liable for any future commitments, penalties, or liquidated damages.
14. **SALES TAX EXEMPTION:** The State of Utah's sales and use tax exemption number is E33399. The tangible personal property or services being purchased are being paid from State funds and used in the exercise of that entity's essential functions. If the items being purchased are construction materials, they will be converted into real property by employees of this government entity, unless otherwise stated in the contract.
15. **WARRANTY:** The contractor agrees to warrant and assume responsibility for all products (including hardware, firmware, and/or software products) that it licenses, contracts, or sells to the State of Utah under this contract for a period of one year, unless otherwise specified and mutually agreed upon elsewhere in this contract. The contractor (seller) acknowledges that all warranties granted to the buyer by the Uniform Commercial Code of the State of Utah apply to this contract. Product liability disclaimers and/or warranty disclaimers from the seller are not applicable to this contract unless otherwise specified and mutually agreed upon elsewhere in this contract. In general, the contractor warrants that: (1) the product will do what the salesperson said it would do, (2) the product will live up to all specific claims that the manufacturer makes in their advertisements, (3) the product will be suitable for the ordinary purposes for which such product is used, (4) the product will be suitable



for any special purposes that the State has relied on the contractor's skill or judgment to consider when it advised the State about the product, (5) the product has been properly designed and manufactured, and (6) the product is free of significant defects or unusual problems about which the State has not been warned. Remedies available to the State include the following: The contractor will repair or replace (at no charge to the State) the product whose nonconformance is discovered and made known to the contractor in writing. If the repaired and/or replaced product proves to be inadequate, or fails of its essential purpose, the contractor will refund the full amount of any payments that have been made. Nothing in this warranty will be construed to limit any rights or remedies the State of Utah may otherwise have under this contract.

16. **PUBLIC INFORMATION:** Contractor agrees that the contract will be a public document, and may be available for distribution. Contractor gives the State express permission to make copies of the contract and/or of the response to the solicitation in accordance with the State of Utah Government Records Access and Management Act. The permission to make copies as noted will take precedence over any statements of confidentiality, proprietary information, copyright information, or similar notation.
17. **DELIVERY:** Unless otherwise specified in this contract, all deliveries will be F.O.B. destination with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage will remain with Contractor until final inspection and acceptance when responsibility will pass to the State except as to latent defects, fraud and Contractor's warranty obligations.
18. **ORDERING AND INVOICING:** All orders will be shipped promptly in accordance with the delivery schedule. The Contractor will promptly submit invoices (within 30 days of shipment or delivery of services) to the State. The State contract number and/or the agency purchase order number shall be listed on all invoices, freight tickets, and correspondence relating to the contract order. The prices paid by the State will be those prices listed in the contract. The State has the right to adjust or return any invoice reflecting incorrect pricing.
19. **PAYMENT:** Payments are normally made within 30 days following the date the order is delivered or the date a correct invoice is received, whichever is later. All payments to the Contractor will be remitted by mail unless paid by the State of Utah's Purchasing Card.
20. **PATENTS, COPYRIGHTS, ETC.:** The Contractor will release, indemnify and hold the State, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article or appliance furnished or used in the performance of this contract.
21. **ASSIGNMENT/SUBCONTRACT:** Contractor will not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the State.
22. **DEFAULT AND REMEDIES:** Any of the following events will constitute cause for the State to declare Contractor in default of the contract:
  1. Nonperformance of contractual requirements;
  2. A material breach of any term or condition of this contract. The State will issue a written notice of default providing a ten (10) day period in which Contractor will have an opportunity to cure. Time allowed for cure will not diminish or eliminate Contractor's liability for damages. If the default remains, after Contractor has been provided the opportunity to cure, the State may do one or more of the following:
    1. Exercise any remedy provided by law;
    2. Terminate this contract and any related contracts or portions thereof;
    3. Impose liquidated damages, if liquidated damages are listed in the contract;
    4. Suspend Contractor from receiving future solicitations.
23. **FORCE MAJEURE:** Neither party to this contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The State may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.
24. **PROCUREMENT ETHICS:** The Contractor understands that a person who is interested in any way in the sale of any supplies, services, construction, or insurance to the State of Utah is violating the law if the person gives or offers to give any compensation, gratuity, contribution, loan or reward, or any promise thereof to any person acting as a procurement officer on behalf of the State, or who in any official capacity participates in the procurement of such supplies, services, construction, or insurance, whether it is given for their own use or for the use or benefit of any other person or organization (63-56-73, Utah Code Annotated, 1953, as amended).
25. **CONFLICT OF TERMS:** Contractor Terms and Conditions that apply must be in writing and attached to the contract. No other Terms and Conditions will apply to this contract including terms listed or referenced on a Contractor's website, terms listed in a Contractor quotation/sales order, etc. In the event of any conflict in the contract terms and conditions, the order of precedence shall be:
  1. State Standard Terms and Conditions;
  2. State Special Terms and Conditions;
  3. Contractor Terms and Conditions.

(Revision date: Nov 21, 2003)

Attachment B  
Poz-Loc Socket System Sign Post  
Specifications

**1.0 General Information**

Utah Department of Transportation (UDOT) is contracting with Northwest Pipe for Poz-Loc Sign Post Socket System, Type 1 small sign supports. The contract will be a 4-year Requirements Contract with a one-year option.

**2.0 Specification**

**2.1 Post Specifications**

- 2.1.1 Posts shall be galvanized inside and out. ASTM-A653, G90 HSLAS Type B, 55,000 minimum yield strength and 70,000 minimum tensile strength.
- 2.1.2 Outside diameter: 2.375" O.D.
- 2.1.3 Wall Thickness: .080 inch nominal.
- 2.1.4 Nominal Pipe Size: 2"
- 2.1.5 Tubing is produced to ASTM A-513.
- 2.1.6 Lengths: 12 foot (144") - 14 foot (168").
- 2.1.7 Holes: 15 holes punched to specifications.
- 2.1.8 Posts are electric resistance welded mechanical steel tubing conforming to ASTM A-513 specifications made from hot dipped galvanized steel sheets per ASTM A-653 G-90 with the exception of heat identity and non destructive testing.
- 2.1.9 All posts shall be approved by F.H.W.A. and AASHTO under the current NCHRP Report # 350 requirements

**2.2 Socket Specification**

Socket size: 2 7/8" O.D. x 12 GA x 27" long tubular socket. The socket is pointed to facilitate driving into the ground and accepts a 2.375" O.D. sign post.

**2.3 Galvanized Wedge Specification**

Galvanized wedge is driven between the socket and the post and functions to lock the post into the socket.

**2.4 Mounting Clamps Specification**

1 1/32" or 3/8" diameter stock with American standard regular semi-finished hex nuts and spring lock washers.



Attachment C  
Poz Loc Socket System Sign Post  
Special Terms and Conditions

**1.0 Invoicing**

In the event the State is entitled to a cash discount, the period of computation shall commence on the delivery date or the date of a correct invoice, whichever is later. If an adjustment in payment is necessary due to damage, the cash discount period shall commence on the date final approval is authorized. The State reserves the right to adjust incorrect invoices.

**Submit Invoices To:**

Utah Department of Transportation  
Accounts Payable  
4501 South 2700 West  
Box 141510  
Salt Lake City, Utah 84114

State shall remit payment by U.S. mail or electronic transfer.

**2.0 Delivery**

Product shall be delivered to UDOT within 30-days after receipt of order.

**3.0 Defectives**

After UDOT has requested credit for defective product and the return of product is desired back, supplier shall pay for all shipping and handling charges back to supplier or factory. Contractor shall provide a UPS or similar pickup tag to UDOT. Credit or replacement of product shall be made within 15-days after initial request.

**4.0 Pricing**

The Contractor agrees prices on signposts and accessories in this contract shall be guaranteed for four (4) years. Any price increases will be reviewed if the awarded vendor requests a price increase. The awarded vendor must show proper documentation of the price increase not exceeding the increase in the PPI data using the formulation listed below. Any change in prices must be made at least thirty (30) days prior to the requested effective date. Any such request must include sufficient documentation supporting this request. Request for change on any pricing in this contract shall not be effective until approved by the UDOT's Procurement Manager.

**5.0 Fuel Surcharge**

A base line will be established for the price of diesel fuel at the time the contract is initiated. Information for the base line will be determined from the web site [www.eia.doe.gov](http://www.eia.doe.gov) / Retail On-Highway Diesel Prices / U.S. Average. Fuel prices may be reviewed on the 1<sup>st</sup> Monday of December and June, at which time we will review the impact of the contract. The data used from The Retail On-Highway Diesel Prices / U.S. Average to change the price in this contract will become the new baseline.

Attachment C  
Poz Loc Socket System Sign Post  
Special Terms and Conditions

See "Attachment D" for Retail On-Highway Diesel Price baseline.

**6.0 Price Escalation Clause**

The state wishes to maintain price increase and price decreases through a defined price escalation clause for the life of the contract.

The Producer Price Index (PPI) Commodity Data for Iron Steel Pipe & Tube Mfg from Purch. Steel, commodity code 33121 is the preferred index. This index can be found at [www.bls.gov](http://www.bls.gov) to be seasonally adjusted and it is the state's intent to only use a single Producer Price Index Commodity Code. If this Commodity Code is deleted or discontinued by the Bureau of Labor Statistics at anytime in the future an alternate code will be chosen by the State Utah with input accepted from the awarded vendor.

**Base Price**

The base price for each item will be your quoted price listed on the bid sheet. That will be referred to as the "Base Price" of each item. This Base Price will be tied to the preliminary June's PPI data for Iron Steel Pipe & Tube Mfg from Purch. Steel, commodity code 33121 that are usually made available during the second full week of the month following the reference date.

**Time Frame for Price Increases or Decreases**

Price changes may be submitted on:

After January 18<sup>th</sup> using December's PPI data.

After July 18<sup>th</sup> using June's PPI data.

The state will expect to take any price decreases on those dates during each year of the contract.

**Calculation of Price Changes**

The calculation for price changes will be completed by using the simple percentage method. In using this method, the base price is changed on each item by the same percentage as the percentage change for the selected price index. Here is an example.

Escalation Factor = (Index at time of calculation) / (Index at time contract prices were set)

|  |              |
|--|--------------|
| Index at price adjustment                            | 115.0        |
| Divided by index when bid price (base price) was set | <u>110.0</u> |
| Escalation Factor = (115.0/110.0)                    | 1.045        |

This same example works in a De-Escalation situation.

This calculation indicates that the contract price should be increased by .045%.

Attachment C  
Poz Loc Socket System Sign Post  
Special Terms and Conditions

The new base number (115.0) will be used in the next price escalation / decrease trimester period.

*See "Attachment D" for the contracts current baseline.*

**Price Guarantee Period**

The base price must be guaranteed until June 2006.

**Responsibility of Price Notifications**

It will be the responsibility of Northwest Pipe to notify the state of any price increase requests.

Price decreases maybe triggered by the awarded vendor or the state.

End.

Attachment D  
Poz Loc Socket System Sign Post  
Pricing

1. **Delivered price to the locations listed below.  
Based On Truck Load Quantities (2) Stops Maximum.**

Region 1  
166 West Southwell Street  
Ogden, Utah 84404-4194

Region 2  
370 West 5900 South  
Murray, Utah 84107

Central Warehouse  
4501 South 2700 West  
Salt Lake City, Utah 84119

Region 3  
658 North 1500 West  
Orem, Utah 84057

Region 4 / Richfield  
1345 South 350 West  
Richfield, Utah 84701

Region 4 / Cedar City  
1470 N. Airport Road  
Cedar City, Utah 84721

Region 4 / Price  
940 South Carbon Ave  
Price, Utah 84501



Attachment D  
Poz Loc Socket System Sign Post  
Pricing

2. Pricing

| Commodity Number | Product Description  | Product Number | Unit Pack | Weight Per Unit Pack | Pricing  |
|------------------|--|----------------|-----------|----------------------|----------|
| 57044000297      | Galvanized .080 inch (14 ga) Tubular Sign Post<br>2-3/8" x 12'                             | 3160           | 50        | 1160                 | \$20.55  |
| 57044000298      | Yellow .080 inch 14 ga Tubular Sign Post<br>2-3/8" x 12'                                   | 3162           | 50        | 1210                 | \$31.38  |
| 57044000300      | Anchor Socket<br>2-7/8" x 27"  | 2804           | 50        | 370                  | \$ 7.60  |
| 57044000301      | Steel Wedge  | 25759          | 50        | 50                   | \$ 2.10  |
| 57044000302      | Steel Sign Post Mounting Clamp<br>1 1/32" or 3/8" Dia. With nuts and washers (See drawing) | 206            | 100       | 40                   | \$ 2.22  |
| Special Order    | Extender<br>2-3/8" x 60"   | 15535          | 50        | 485                  | \$ 8.56  |
| Special Order    | Splice Connector   | 2829           | 25        | 43                   | \$ 1.78  |
| Special Order    | Manual Socket Driver   | 2712           | 1         | 45                   | \$129.40 |
| Special Order    | Drive Cap  | 2700           | 1         | 12                   | \$83.60  |
| Special Order    | Wedge Puller   | 2713           | 1         | 9                    | \$ 70.70 |

3. Non Stock Pipe Lengths

| Description  | Price Per Foot  |
|--|-----------------|
| 2.375 O.D. x 2" Nominal x .065 Wall Thickness Sign Post Not Listed | \$1.68 per foot |
| 2.375 O.D. x 2" Nominal x .080 Wall Thickness Sign Post Not Listed | \$1.71 per foot |
| 2.375 O.D. x 2" Nominal x .095 Wall Thickness Sign Post Not Listed | \$1.91 per foot |
| Accessories Not Listed Above                                       | None            |
| Parts  | None            |

Attachment D  
Poz Loc Socket System Sign Post  
Pricing

4. Tools

| Commodity Number | Product Description          | Product Number | Unit Pack | Weight Each | Pricing  |
|------------------|------------------------------|----------------|-----------|-------------|----------|
| Special Order    | Drive Cap Square Adaptor     | 25705          | 1         | 3.0         | \$123.20 |
| Special Order    | Drive Cap 7/8" Hex Adaptor   | 25941          | 1         | 3.0         | \$124.50 |
| Special Order    | Drive Cap 1-1/8" Hex Adaptor | 25706          | 1         | 3.0         | \$ 85.50 |
| Special Order    | Drive Cap 1-1/4" Hex Adaptor | 25760          | 1         | 3.0         | \$ 85.50 |

5. Accessories

| Commodity Number | Product Description                                    | Product Number | Unit Pack | Weight Each | Pricing |
|------------------|--|----------------|-----------|-------------|---------|
| Special Order    | Poz Loc 2.375 Post Surface Mount                       | 27594          | 1         | 2.0         | \$10.90 |
| Special Order    | 2.0 Sing Clamp Assembly                                | 206            | 100       | .40         | \$2.22  |
| Special Order    | Sign Clamp Casting 2" Pipe Size                        | 2715           | 100       | .20         | \$1.46  |
| Special Order    | U-Bolts 2" Pipe Size                                   | 2717           | 100       | .40         | \$ .60  |
| Special Order    | 3/8"-16 x 1-1/4" A 325 Hex Bolt, Nut and LW Galvanized | 2971           | 100       | .1          | \$ .17  |
| Special Order    | 2.375 13 ga Poz Loc T Bracket HDG                      | 17288          | 25        | 12.5        | \$32.99 |
|                  | 2" Round Friction Cap                                  | 23842          | 100       | .10         | \$ .90  |

6. Terms

Minimum Order Not Delivered  
*Whole bundle or package quantity.*

Minimum Order Freight Delivered  
*44,000 lbs per truckload, maximum of two delivery points per truck.*

Volume Discounts  
*None.*

Seasonal Discounts / Please Specify  
*None.*

Other Discounts and Terms offered:  
*None.*



Attachment D  
Poz Loc Socket System Sign Post  
Pricing

7. **Producer Price Index**

Should you disagree with the Producer Price Index commodity code that is noted in Attachment C, note below your requested commodity with an explanation. Your single recommended commodity code must be selected from the Producer Price Index.

*Nothing noted in the bid response.*

8. **National Average Retail On-Highway Diesel Price**

*The baseline for this contract will be set at \$2.336 based on Retail On-Highway Diesel Price dated June 27, 2005. See Attachment C for the details.*

9. **Producer Price Baseline**

*The baseline for this contract will be set at 158.1 based on the PPI Commodity 33121 dated June 2005.*

End.